

★ SEP 16 2019 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

MILDRED MERCADO,	X	
	:	
	:	
Plaintiff,	:	
	:	
v.	:	<u>DECISION & ORDER</u> 18-CV-4179 (WFK)
	:	
COMMISSIONER OF SOCIAL SECURITY,	:	
	:	
Defendant.	:	

WILLIAM F. KUNTZ II, United States District Judge:

Mildred Mercado (“Plaintiff”), proceeding *pro se*, filed this social security action on July 19, 2018. *See* Compl., ECF No. 1. Pursuant to this Court’s order, Plaintiff was to serve, but did not serve, her opposition to Defendant’s motion for judgment on the pleadings by July 5, 2019. *See* ECF No. 12. On August 5, 2019, this Court ordered Plaintiff to file a response to the motion by August 30, 2019 and noted, “[f]ailure to comply [with that due date] or otherwise prosecute this action will result in dismissal under Rule 41 of the Federal Rules of Civil Procedure.” *See* Order dated August 5, 2019, ECF No. 13. To date, Plaintiff has not filed any response or cross-motion.

Rule 41(b) of the Federal Rules of Civil Procedure provide, in relevant part, “[f]or failure of the plaintiff to prosecute or to comply with . . . any order of the court, a defendant may move for dismissal of an action or any claim against the defendant.” A district court has the inherent power to dismiss a case with prejudice for lack of prosecution pursuant to Rule 41(b). *See Link v. Wabash R.R. Co.*, 360 U.S. 626, 629 (1962). By failing to respond to Defendant’s motion, Plaintiff has twice violated this Court’s orders and has failed to pursue her claim. Therefore, the

Court concludes Plaintiff's noncompliance warrants dismissal, but orders such dismissal be without prejudice given Plaintiff's *pro se* status.

For the foregoing reasons, the above-captioned action is hereby DISMISSED without prejudice for failure to prosecute pursuant to Rule 41(b). The Clerk of Court is directed to close this case.

SO ORDERED.

s/WFK

HON. WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

Dated: September 12, 2019
Brooklyn, New York